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DATE: April 20, 1973

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SUBJECT: Malaysian Statement to the Committee on the
Peaceful Uses of the Sea-bed

Enclosed is a copy of a note from the Permanent Mission of Malaysia to the UN, dated April 11, 1973, transmitting a copy of the Malaysian statement to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction.

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Enclosures:

1. Copy of Note
2. Copy of Statement

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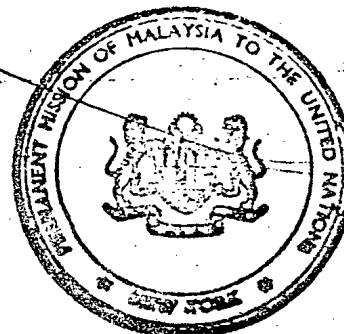
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The Permanent Mission of Malaysia to the United Nations presents its compliments to the Permanent Mission of the United States of America to the United Nations and has the honour to convey herewith, for the information of the latter, a copy of the statement made by Mr. L.C. Vohrah, Malaysian Representative to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction, at the 62nd Meeting of Sub-Committee II, held at 3:25 p.m. on 5 April, 1973 at United Nations Headquarters, New York.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Permanent Mission of the United States of America to the United Nations, the assurances of its highest consideration.

New York

11 April, 1973



MALAYSIAN REPRESENTATIVE TO THE
COMMITTEE ON THE PEACEFUL USES
OF THE SEABED AND THE OCEAN FLOOR
BEYOND THE LIMITS OF NATIONAL JURISDICTION

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Mr. Chairman,

Document A/AC.138/S.CII/L.18, which contains draft articles on navigation through the territorial sea including straits used for international navigation and which was so ably and forcefully introduced to this Sub-Committee by the distinguished Representative of the Philippines, has evoked some very interesting and provocative comments. This document represents, as has clearly been pointed out a number of times before, a balance between the particular interests of coastal States and the general interests of the international maritime community. The authors in the preparation of this document took considerable time over and gave careful consideration to the needs and interests of the international community, a community which includes coastal States such as my own. May I add that these coastal States are no less responsible members of that community as might have been implied in some statements in this Sub-Committee. Many of these comments have already been referred to in the very clear and eloquent interventions of the distinguished Representative of

Spain, Indonesia and Egypt yesterday and the day before

in this Sub-Committee. Some of these comments indicate a failure in the understanding and appreciation of the concerns and fears of coastal States about their own well-being and security. This failure would seem to arise from a pre-occupation with regard to purely strategic considerations which have overridden roughshod the just concerns and fears of coastal States. I have accordingly asked the floor, Mr. Chairman, not to repeat what has been said but to state briefly my delegation's stand on one or two points.

The first point I wish to make, Mr. Chairman, is that for my delegation the question of navigation through straits which form part of the territorial sea is purely and simply a question of navigation through territorial waters. This is our basic premise. My delegation therefore cannot accept any proposition advocating the application of a totally separate regime to such straits. We ask no more than what international law accords other States, that is, the right to claim sovereignty over their land territory, air space and territorial sea subject to the right of user States for innocent passage. And I would like to assure certain delegations that there is certainly no confusion in our minds on this score.

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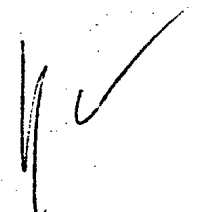
have taken upon themselves to be the guardians of the international community, that community interests must be borne in mind in any settlement with regard to passage through straits used for international navigation. They appear to have adopted a very altruistic role and to have set themselves up as the arbiters of the needs of the international community. But in fact, Mr. Chairman, as has already been pointed out very cogently by distinguished speakers before me, what these delegations are really concerned about are their global strategic interests and not the facilitation of international navigation as such. Are coastal States bordering straits then to sacrifice their national security interests for the global interests of just a few States? The answer to that question, for my delegation and, I am sure, for many others, is obvious. It has been also contended, Mr. Chairman, that international commercial interests would not be well served if shipping were subjected to the discretionary controls of coastal States. This fear in the opinion of my delegation is quite unfounded in view of the provisions of Article 4 of L.18, the purpose and purport of which article is to guarantee the right of innocent passage and to prevent any form of

to quote the words of this Article:

" The Coastal State must not hamper innocent passage through the territorial sea. In particular, it shall not impede the innocent passage of a foreign ship flying the flag of a particular State or carrying goods owned by a particular State, proceeding from the territory of or consigned to such a State."

The twelve-mile territorial sea rule, to which Malaysia subscribes, has, as numerous delegations have pointed out, emerged as a general rule in the practice of States. Are we now to be deprived of the right to subscribe to this rule just because a few States find its application unacceptable in territorial waters in which their military vessels would like unbridled mobility?

The concept of innocent passage, in the opinion of my delegation, takes into clear account the international community interests by striking an equitable balance between peaceful maritime communication and the vital interests of the coastal State and this is a concept we very firmly adhere to. There has never been a case of the innocent passage of a vessel having been stopped in our territorial waters in the Straits of Malacca. At



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the present time with the closest and warmest relations existing between Malaysia and Indonesia there is every intention on the part of our two countries to facilitate international navigation in our respective territorial waters in the Straits. It is obvious from this, therefore, that all these fears about the hampering of international navigation would seem to be misconceived.

Our interests in our territorial waters and straits are not only concerned with the safety of navigation and the prevention of pollution. We equally have a vital interest in fully ensuring the security of our country and all these interests, Mr. Chairman, require us to assume sovereignty over our territorial waters and territorial straits subject only to the right of innocent passage in accordance with the proposal embodying the draft articles contained in Document L.18. My delegation was particularly pleased to hear the constructive analysis and criticism of the document made by the distinguished Representative of Sri Lanka on the afternoon of 3rd April, and would welcome more statements of that nature.

Reference has also been made, Mr. Chairman, for the application of internationally agreed standards for the regulation of passage through straits used for international navigation, standards such as those

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would certainly take advantage of this organization's expertise in matters relating to safety of navigation, but no coastal State is prepared to sacrifice its sovereignty in allowing organizations of this sort to impose upon itself schemes which do not accord with its security interests. However, Mr. Chairman, as far as IMCO is concerned, my understanding is that it can only make recommendations and these in any case do not apply to warships and sub-marines. Quite apart from the attempt to impose such schemes upon coastal States bordering straits there is now an attempt to impose the concept of free transit with the incident of overflight, a concept which my delegation finds unacceptable.

That is all I have to say on this occasion, and would like, Mr. Chairman, to reserve my delegation's right to elaborate on this and other matters under discussion at some later point.

Thank you, Mr. Chairman.

New York

5th April, 1973.